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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,152	10/07/2005	Takayasu Taniguchi	053170	9203
38834	7590	10/11/2006	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/552,152	<b>Applicant(s)</b> TANIGUCHI ET AL.	
	<b>Examiner</b> Melanie J. Hand	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/7/05</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Acknowledgment is also made of applicant's claim for priority under 35 U.S.C. 371, claiming benefit of copending Application No. PCT/JP04/04989, filed on April 7, 2004.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on October 7, 2005 was filed on the mailing date of the Application. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 3-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Ito et al (JP 2002153545 (translation)).

With respect to **Claim 1**: Ito teaches a water-absorbing resin compound comprising an antimicrobial agent having a porous aluminosilicate material (water absorbent resin) comprising an antibacterial metal, and a metal chelating agent.

With respect to **Claim 3**: Ito teaches a weight ratio for the weight of the porous material to the weight of the metal of 1:0.1- 1:1, therefore the content of the antibacterial metal as taught by Ito satisfies the limitation of claim 3.

With respect to **Claim 4**: Ito teaches that the chelating agent is present in 1.0% of a processing fluid for addition to the absorbent layer that comprises 100% polyacrylate resin, therefore the chelating agent upon addition to the resin is present in an amount of 0.01 parts per 100 parts superabsorbent resin.

With respect to **Claims 5,6**: Ito teaches ethylenediaminetetraacetic acid as a chelating agent.

With respect to **Claim 7**: Ito teaches an absorbing material that comprises a water absorbent resin compound according to the claimed invention and a hydrophilic fiber.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject

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matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito et al (JP 2002153545 (translation)) in view of Yamazaki et al (JP 2001039802 (translation)).

With respect to **Claim 2**: Ito does not teach a superabsorbent and therefore does not teach a weight fraction for the antibacterial agent relative to said superabsorbent. Yamazaki teaches an antibacterial compound that is present in 0.01-100 parts by weight per 100 parts absorbing resin. Yamazaki teaches that a weight fraction for the antibacterial agent in this amount is desirable for effective bactericidal function when being mixed with the chelating agent and superabsorbent so as not to cause interference of function of any of the other components due to the presence of the other components, therefore it would be obvious to one of ordinary skill in the art to have an amount of antibacterial agent taught by Ito present in the weight ratio taught by Yamazaki.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito et al (JP 2002153545 (translation)) in view of Hanaoka et al (JP 8052203 (translation)).

With respect to **Claim 8**: Ito does not teach an absorbent product. Hanaoka teaches an absorbent product comprising a liquid-permeable sheet, a liquid-non-permeable sheet and an absorbing material comprised of a water-absorbing resin compound further comprised of a chelating agent, and a hydrophilic fiber, wherein the absorbing material lies between the liquid-permeable sheet and the liquid-non-permeable sheet. Since Hanaoka teaches an absorbent resin compound that contains substantially the same ingredients as that taught by Ito, it would be obvious to one of ordinary skill in the art to use the deodorizing and antibacterial compound taught by Ito in an absorbent product as taught by Hanaoka with a reasonable expectation of success to impart these benefits to the product.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', is written over the printed name and title of the Supervisory Primary Examiner.